IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 13105 of 2007(I)

PETITIONER:

C.H.RAGHAVAN, AGED 71 YEARS,
S/O.CHATHU, GANAPATHY VILLA,
KOTTAKUNNEL, SULTHAN BATHERRY, WAYANAD.

BY ADV. SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY

RESPONDENTS:
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1. SULTHAN BATHERY GRAMA PANCHAYAT,
BATHERY, WAYANAD, REPRESENTED BY ITS SECRETARY.

2. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

R1 BY ADV. SRI.K.M.SATHYANATHA MENON
R2 BY GOVT. PLEADER MR.K.J.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 13105/07)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF JUDGMENT DATED 5.10.2005 IN O.P.NO.21259/02 OF THIS HONOURABLE COURT.

EXT.P2: TRUE COPY OF GOVERNMENT ORDER DATED 26.10.2006.

EXT.P3: TRUE COPY OF ORDER NO.II DATED 10.11.2006 OF THE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF LAWYER NOTICE DATED 21.12.2006 SENT BY THE PETITIONER THROUGH HIS ADVOCATE.

EXT.P5: TRUE COPY OF NOTICE DATED 12.1.2007 FROM THE 1ST RESPONDENT.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.13105 of 2007

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Dated: 10th September, 2007

JUDGMENT

It is submitted by the learned Government Pleader as well as learned counsel for the Panchayat that the petitioner is yet to exhaust his statutory remedies against Ext.P5. According to them, the petitioner can prefer appeal to the concerned taxation Standing Committee of the Panchayat. Counsel for the petitioner submits that it is very unlikely that in the light of the observations contained in Ext.P2 Government Order any useful purpose will be served by filing appeal. I do not think so. The Government only directed the Panchayat to pass fresh orders in tune with Circular No.45290/L2/92/LSGD dated 7.10.1992 and according to the petitioner, Ext.P5 order has been passed by the Panchayat pursuant to Ext.P2. The petitioner has statutory remedy against Ext.P5 to the Standing Committee of the Panchayat and he has to avail that remedy before invoking the extraordinary jurisdiction of this court under Article 226 of the Constitution. I dispose of the Writ Petition relegating the petitioner to the statutory remedy by way of appeal to the taxation Standing Committee against Ext.P5. If the petitioner prefers an appeal within three weeks of him receiving a copy of this

judgment, the taxation Standing Committee will entertain the appeal and dispose of the same in accordance with law. Considering the above directions, the order of stay presently passed will continue till such time as the appeal is disposed of by the taxation Standing Committee provided the appeal is filed within the time frame set above.

srd **PIUS C.KURIAKOSE, JUDGE**